

Notice of Allowability

Application No.

09/667,039

Examiner

Daniel A Hess

Applicant(s)

WONG ET AL.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Interview of 11/19/2003.
2. ☒ The allowed claim(s) is/are 12-16 and 18-22.
3. ☒ The drawings filed on (drawings not included) are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. _____. |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other _____. |

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EXAMINER'S AMENDMENT / ALLOWANCE

Remarks

A telephonic interview on Nov. 19th, 2003, with applicant's representative, Mr. Roy Anderson, proceeded as follows:

The applicant's attorney, Mr. Anderson, referred to p. 8, paragraph 11 of the 10/07/2003 Office Action and offered to amend claim 1 by adding "dynamically" to claim 1, line 4 before "storing the data packet." The examiner indicated that this would require an additional search, and therefore would not be a proper amendment. In view of the foregoing, applicant's attorney agreed to cancel the rejected claims (1-10) to place the application in condition for allowance and to pursue prosecution of the rejected claims in a continuing application.

The status of the drawings is acceptable, since the invention can be understood without them.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Roy Anderson on 11/19/2003, as well as a phone conversation on 12/3/2003.

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The application has been amended as follows:

IN THE SPECIFICATION:

In the third line of page 1, the blank space has been replaced with --09/659,434--. In the same paragraph, the words U.S. application Serial No. 09/571,707 are now followed by the words,

--, now US Patent No. 6,592,044, --.

IN THE CLAIMS:

Re claims 1-10: Claims 1-10 have been cancelled.

REASONS FOR ALLOWANCE

Claims 12-16, 18-22 are allowed.

The following is an examiner's statement of reasons for allowance:

Re claim 12-16 and 18-21: McCabe (US 6,068,192) shows the following: There is an account number (column 4, line 54) on the card. It is clear that if the card is to be used in swipe transactions, as is typical, this number must also be stored in the stripe, although it is not explicitly stated. The card is a credit card type (column 5, lines 60-65). Therefore each transaction request must submit data, including the account number, to a money source for

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approval of the payment card transaction, as well as a user account number in an approval process.

McCabe fails to show that the smart card executes a program to check battery life and then generates a warning signal if battery life is low.

Neustein (US 5,192,947) shows (column 5, lines 59-61) that there is an indicator of a low battery on a card. Neustein does not show how this is achieved.

Lamensdorf (US 5,568,121) (column, lines 20-28) shows how a low battery is detected: a program monitors power and creates a low battery signal.

In view of the teachings of Neustein and Lamensdorf, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the old and well-known executed of a program to check battery life and then generating a warning signal if battery life is low as taught by Neustein and Lamensdorf into the teachings of McCabe because this can allow the user to replace a card before the power runs out.

However, the second part of step 3, was not found in the prior art of record. The examiner did not find any art showing submitting a low battery signal to a money source in connection with a transaction approval process.

Re claim 22: The examiner did not find within the art, and Eisel does not teach, that the sequence number used for generating the one-time use credit card number originates in a particular security data packet of the type discussed in the earlier claims upon which claim 11 depends.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel A Hess whose telephone number is (703) 305-3841. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on (703) 305-3503. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



DH

Daniel A Hess
Examiner
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